

Message Text

CONFIDENTIAL

PAGE 01 STATE 270692

73

ORIGIN L-02

INFO OCT-01 EUR-12 EA-06 IO-10 ISO-00 OES-03 CIAE-00

DODE-00 PM-03 H-01 INR-05 NSAE-00 NSC-05 PA-01 RSC-01

PRS-01 SP-02 SS-15 USIA-06 ACDA-05 /079 R

DRAFTED BY L/OES:RJBETTAUER:MJR

APPROVED BY L/MR. ALDRICH

EA/VN - MR. WENZEL

IO/UNP - MR. BAKER

EUR/CE - MR. FLATIN

----- 016870

R 102119Z DEC 74

FM SECSTATE WASHDC

TO AMEMBASSY BERN

INFO USMISSION USUN NEW YORK

USMISSION GENEVA

USDEL JEC PARIS

AMEMBASSY SAIGON

C O N F I D E N T I A L STATE 270692

E.O. 11652: GDS

TAGS: SZ, VS

SUBJECT: PRG ISSUE AT LAW OF WAR CONFERENCE

1. DESPITE FACT THAT ISSUE OF INVITATION OF PRG ALREADY
DECIDED AT FIRST SESSION OF DIPLOMATIC CONFERENCE ON REAF-
FIRMATION AND DEVELOPMENT OF INTERNATIONAL HUMANITARIAN LAW
APPLICABLE IN ARMED CONFLICTS, WE THINK IT LIKELY THAT ISSUE
WILL AGAIN BE RAISED AT BEGINNING OF SECOND SESSION IN FEB-
RUARY 1975. DEPARTMENT INTENDS TO MAKE SERIES OF DEMARCHES
ON THIS ISSUE. IN ADVANCE OF SENDING SUCH INSTRUCTIONS TO
POSTS, HOWEVER, WE REQUEST THAT YOU CONSULT WITH AN APPROP-
RIATE SENIOR OFFICIAL OF THE FEDERAL POLITICAL DEPARTMENT
(PROBABLY FRANCOIS-CHARLES PICTET), SINCE FOREIGN MINISTER
GRABER IS CONFERENCE PRESIDENT, WITH VIEW TO CLARIFYING PRO-
CEDURAL SITUATION. POINTS YOU SHOULD MAKE ARE CONTAINED IN
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 270692

FOLLOWING PARAGRAPHS.

2. THE SWISS SHOULD BE INFORMED THAT DESPITE FACT THIS POLITICAL ISSUE DECIDED BY VOTE ON FEBRUARY 28, 1974 (AT FIRST SESSION OF CONFERENCE), AND SHOULD NOT THEREFORE WASTE VALUABLE TIME CONFERENCE NEEDS FOR SUBSTANTIVE WORK, WE THINK COMMUNISTS MAY FEEL COMPELLED TO RAISE PRG ISSUE AGAIN AT SECOND SESSION. PLEASE TELL SWISS WE BELIEVE BEST CHANCE OF AVOIDING THIS ISSUE OR OF DISPOSING OF IT EXPEDITIOUSLY AT OUTSET OF CONFERENCE LIES IN CLEAR WILLINGNESS OF CHAIRMAN TO RULE THAT ISSUE REQUIRES TWO-THIRDS MAJORITY.

3. YOU SHOULD TRY TO CONFIRM OUR UNDERSTANDING THAT GRABER WILL RULE THAT A TWO-THIRDS MAJORITY IS NECESSARY TO REVERSE LAST YEAR'S DECISION. RULE 32 OF CONFERENCE RULES OF PROCEDURE PROVIDES: "WHEN A PROPOSAL HAS BEEN ADOPTED OR REJECTED IT MAY NOT BE RECONSIDERED UNLESS THE CONFERENCE, BY A TWO-THIRDS MAJORITY OF THE REPRESENTATIVES PRESENT AND VOTING, SO DECIDES. PERMISSION TO SPEAK ON THE MOTION TO RECONSIDER SHALL BE ACCORDED ONLY TO TWO SPEAKERS OPPOSING THE MOTION, AFTER WHICH IT SHALL BE IMMEDIATELY PUT TO THE VOTE." IN OUR VIEW IT IS CLEAR THAT A NEW RESOLUTION TO INVITE THE PRG WOULD COME UNDER THIS RULE. LAST YEAR'S PROPOSAL TO INVITE PRG WAS SUBMITTED IN FORM OF DRAFT RESOLUTION (CDDH/14) AND REJECTED, A NEW RESOLUTION ON THIS ISSUE WOULD BE MOVE FOR RECONSIDERATION.

4. PROPONENTS OF INVITATION TO PRG MIGHT ARGUE THAT PARAGRAPH 4 OF RULE 35 APPLIES. THIS PARAGRAPH READS: "ANY DECISION RELATING TO INVITATIONS TO PARTICIPATE IN THE CONFERENCE SHALL BE ADOPTED BY A SIMPLE MAJORITY OF VOTES OF THE REPRESENTATIVES PRESENT AND VOTING." (THIS PARAGRAPH WAS INSERTED IN THE RULES AFTER A DRAFT RESOLUTION, CDDH/13/REV.2, TO THIS EFFECT WAS ADOPTED IN PLENARY FEBRUARY 27, 1974.) HOWEVER, WE DO NOT BELIEVE PARAGRAPH 4 OF RULE 35 APPLIES TO RECONSIDERATION OF PROPOSALS. THIS VIEW IS BORNE OUT BY PRECEDENT. THUS, FOR EXAMPLE, A DECISION ON A PROCEDURAL MATTER IS TAKEN BY A MAJORITY VOTE (PARAGRAPH 2 OF RULE 35), BUT, ONCE TAKEN, A PROPOSAL TO REVERSE OR RECONSIDER THAT PROCEDURAL DECISION REQUIRES TWO-THIRDS VOTE (UNDER RULE 32). SIMILARLY ANY DECISION TAKEN UP ON CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 270692

INVITATIONS IS NOT SUBJECT TO IMMEDIATE, FREQUENT, AND CONTINUED ATTEMPTS TO REVERSE IT BY THE SAME SIMPLE MAJORITY BY WHICH IT WAS ORIGINALLY DECIDED; ONCE DECIDED, RULE 32 APPLIES.

5. PROPONENTS OF INVITATION TO PRG MAY CHALLENGE RULING IN EFFORT TO HAVE PARAGRAPH 4 OF RULE 35 APPLY INSTEAD OF RULE 32. YOU SHOULD EXPRESS TO THE SWISS OUT CONFIDENCE

THAT GRABER'S RULING WOULD BE UPHELD.

6. IF YOU UNABLE TO OBTAIN FIRM INDICATION FROM SWISS AS
TO HOW GRABER WILL HANDLE THIS ISSUE, RECOMMEND YOU SEEK
EARLY OPPORTUNITY AT CONVENIENT OCCASION TO DISCUSS IT
WITH GRABER HIMSELF. INGERSOLL

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MEETINGS, LAW OF WAR, MEETING DELEGATIONS, INTERNATIONAL PEACEKEEPING FORCES
Control Number: n/a
Copy: SINGLE
Draft Date: 10 DEC 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE270692
Document Source: CORE
Document Unique ID: 00
Drafter: RJBETTAUER:MJR
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740358-1116
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741246/aaaabnfg.tel
Line Count: 121
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 02 MAY 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <02 MAY 2002 by elyme>; APPROVED <25 MAR 2003 by CunninFX>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PRG ISSUE AT LAW OF WAR CONFERENCE
TAGS: PARM, SZ, VS
To: BERN
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005